



საერთაშორისო გამჭვირვალობა – საქართველო
TRANSPARENCY INTERNATIONAL GEORGIA

Case Study: the Georgian Parliament's Code of Ethics – Implementation and Recommendations for Reform

by Lasha Gogidze, Transparency International Georgia

April 2012¹

¹ This study was commissioned by the OSCE Office for Democratic Institutions and Human Rights (ODIHR). The opinions and information it contains do not necessarily reflect the policy and position of the ODIHR or the OSCE.

Table of Contents

Executive summary	3
Introduction	4
Background information	5
Post-adoption period and the current status	7
Preliminary recommendations	10
References	12
Annex 1: Code of Ethics of the Members of the Georgian Parliament (2004)	14
Annex 2: Questionnaire on the Parliamentary Code of Ethics in Georgia	16

Case Study: the Georgian Parliament's Code of Ethics – Implementation and Recommendations for Reform

Executive summary

High professional and ethical standards of Parliamentarians are important prerequisites for building public trust and confidence in the work of the Parliament in general and in the integrity and truthfulness of its members in particular. In Georgia, a Code of Parliamentary Ethics exists since 2004, but has not been very actively invoked since then. However, a revived Code of Ethics could be a useful mechanism in raising Parliamentarians' ethical standards and improving the public image of their conduct. It would serve as a basic reference document for the Members of the Parliament (MPs) on how they should behave in their capacity as public servants; provide clear criteria for society and the media to judge this behavior; and improve the country's international standing in terms of fighting corruption and ethical misconduct in public service.

Citizens' concerns about recurring instances of Parliamentarians' professional misbehavior has been a long-standing issue in Georgia since the country regained independence from the Soviet Union and started to develop its own legislature. To address this, on 12 October 2004, the Georgian Parliament endorsed the Code of Ethics for its members, a two-page long document combining basic professional and ethical standards of conduct of Parliamentarians. The solemn signing ceremony at the Parliament was attended by the then Parliament Chairwoman Nino Burjanadze as well as a large number of Parliamentarians, representatives of international organizations, foreign embassies, NGOs and the media.

Eight years have passed since the signing of Georgia's Parliamentary Code of Ethics but the cases of Parliamentarians' unethical behavior have not been deterred from occurring while the generally low public perception of MPs' conduct remains largely the same as it was before.

This study was commissioned by the Organization for Security and Co-operation in Europe's (OSCE) Office for Democratic Institutions and Human Rights (ODIHR), in preparation for the Conference on Codes and Standards of Ethics for Parliamentarians, held in Tbilisi, Georgia, on 19 April 2012. The Conference was held in co-operation between OSCE ODIHR and the Parliament of Georgia. The study aims to find the main reasons behind the 2004 Ethics Code's inability over the years to deter misbehavior on the part of Parliamentarians. In this paper, Transparency International Georgia (TI Georgia) provides a general overview of the process of developing and adopting the Code, discusses its current status and suggests ways for improvement.

The key findings and recommendations of this study are:

- The 2004 Parliamentary Code of Ethics, which was adopted as a general declaration, did not include mandatory provisions or an enforcement mechanism. Such a system has proven to be inefficient in that the Code was unable to make the responsible Parliamentarians liable for unethical acts conducted over the last eight years.
- At the same time, the Parliament does not consider adopting a new binding Code of Ethics due to the reluctance of its members. Most of the Parliamentarians interviewed for this study preferred to maintain the existing system which they thought could be improved further.
- The existing Code of Parliamentary Ethics needs to be better promoted. The Parliament should post the document on a prominent place on its web page but also require its members to take an oath and sign a pledge to abide by the Code's provisions before assuming office.

- The Code of Ethics should be embedded or referenced in the Parliamentary Rules of Procedure to make it binding upon all MPs. In order to avoid duplication and overregulation the Code should include references to detailed citations of all relevant legislation. In this way, the Parliamentarians would easily find their professional duties and responsibilities listed in a single overarching document.
- The Parliament's Procedural Issues and Rules Committee has relevant experience and expertise to perform monitoring and regulatory function when it comes to the MPs' compliance with ethical and professional standards. This Committee could embed the Code of Ethics in its mandate, thus sparing the Parliament from spending additional resources for setting up a new body.
- The public 'naming and shaming' of Parliamentarians is seen by the respondents of this study as the most appropriate penalty for deterring their ethical misconduct. The Georgian MPs would feel particularly uncomfortable if their image and reputation is distorted in a society where connections and networks play a vital role in people's professional and private lives.
- An improved and more accountable system for Parliamentary ethics regulation would serve well Georgia's aspirations towards integration with the European Union where public servants' compliance with ethical norms is deemed to be one of the basic aspects of good governance.

Introduction

The Parliament is a key institution within a democratic system of governance. It is endowed with a capacity to represent people, make laws, but also to conduct oversight of the Executive and the Judiciary. Therefore, high professional and ethical standards of people's elected representatives are important prerequisites for building public trust and confidence in the work of the Parliament in general and in the integrity and truthfulness of Parliamentarians in particular.

A unified Code of Ethics could serve as a basic reference document for Parliamentarians on how they should behave in their capacity as public servants; provide clear criteria for society and the media to judge this behavior; and improve the country's international standing in terms of fighting corruption and ethical misconduct in public service. With this in mind, a good Code of Ethics should ideally include clear and detailed provisions on Parliamentarians' acceptable and unacceptable behavior, disclosure of personal interests, use of government allowances, as well as their outside and post-Parliamentary employment.² To effectively implement these provisions in practice there also needs to be an independent body established for advising, monitoring and adjudicating on Parliamentarians' ownership of and compliance with the new Code.

Public disillusionment with improper conduct of Parliamentarians has been a long-standing issue in Georgia since the country regained independence from the Soviet Union and started to develop its own legislature. Insolence, brawls and even hand-to-hand fighting have all marred the behavior and prestige of Parliamentarians who have also faced allegations of ghost-voting, abusing administrative resources, and conflict of interest, amongst other allegations of misconduct. Such incidents have in turn damaged the reputation and credibility of Parliament as an institution and caused a degree of apathy among the voters.

To improve this, on 12 October 2004, the Parliament of Georgia endorsed the Code of Ethics, a very general document of two pages, which put together basic professional and ethical standards of conduct of Parliamentarians. The solemn signing ceremony at the Parliament, led by the then Parliament Chairwoman Nino Burjanadze herself, was attended by a large number of Parliamentarians, representatives of international organizations, foreign embassies, NGOs

² Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR), "Background Study: Professional and Ethical Standards for Parliamentarians", Working Draft, January 2012, pp. 6-7

and the media. Eight years has passed since the signing of Georgia's Parliamentary Code of Ethics but the cases of professional misbehavior in the Parliament have not been deterred from occurring while the generally low public perception of Parliamentarians' conduct remains largely the same as it was before.

This paper asks why Georgia's 2004 Parliamentary Code of Ethics that commanded a great deal of support and enthusiasm from the MPs during its adoption has failed to change the status quo, what are the main contributing factors, what is the current status of this document and what can be improved?

TI Georgia's main findings are based on a combination of desk research and series of interviews with relevant senior Parliamentarians, both current and former, conducted from 20-26 March 2012 in Tbilisi. TI Georgia elaborated a set of guiding questions for these interviews based on the information collected from the desk research (See Annex II). The interviews were held with representatives of Parliamentary majority and minority who were involved in the drafting of the Ethics Code in 2004 and/or who have relevant expertise and experience of working on such issues, as well as with the former Parliamentary Chairwoman Nino Burjanadze.

Background information

Since the mid-1990s, issues related to Parliamentarians' professional conduct have mainly been regulated by Parliamentary Rules of Procedure and enforced by Parliamentary Committee of Procedural Issues and Rules as well as by Mandaturi, the latter being a structural unit within the Parliament Apparatus having similar functions as the Sergeant-at-Arms in the U.S. House of Representatives. It was not until 2004 that the Parliament decided to combine basic ethical and professional standards of MPs' conduct in a separate Code.

It is noteworthy that the initiative to have an Ethics Code in the Parliament came from civil society, namely from TI Georgia. At the initial stage of the process, TI Georgia representatives held meetings with the Parliament leadership, including Chairwoman Nino Burjanadze, Vice-speaker Mikheil Machavariani, the heads of the Parliamentary factions and committees, and various independent Parliamentarians, to discuss the adoption of the Code of Ethics and to agree on the format of the elaboration process. The MPs showed great support for this process and committed to displaying higher moral and ethical standards in their public conduct. The Parliamentary Chairwoman Nino Burjanadze designated the Head of the Legal Issues Committee, Levan Bezhashvili, to facilitate the elaboration of the Code of Ethics and to coordinate this process with TI Georgia.³ At the same time, a five member working group was set up consisting of all factions in the Parliament, including three representatives from the ruling party, one from the opposition and one from the independent majoritarians faction.⁴ There was no quota for membership required to participate in this working group and hence all other interested Parliamentarians could also join it.⁵

For its part, TI Georgia conducted preliminary research on the topic and put together a number of useful materials on best international practices (e.g., Parliamentary Codes of Ethics of different European countries and their independent analysis, TI Working Papers). These

³ Transparency International Georgia, "Developing and Publicly Signing a Code of Ethics for the Georgian Parliament", Narrative Report, May-October 2004

⁴ The working group had the following members: Maia Nadiradze (Head of National Movement – Democrats Faction); Zurab Tkemaladze (Deputy Head of Right Opposition – Industrialists, New Rights Faction); Valeri Gelbakhiani (Deputy Head of Independent Majoritarians Faction); Gigi Tsereteli (National Movement – Democrats Faction); and Levan Bezhashvili (Head of Legal Issues Committee from the National Movement – Democrats Faction)

⁵ TI Georgia's interview with Khatuna Gogorishvili, Chairperson of the Procedural Issues and Rules Committee of the Parliament of Georgia from the United National Movement, 22 March 2012

materials were then sent to the Parliamentary working group members to assist them in the Code drafting process.⁶

The first draft of the Parliamentary Code of Ethics was developed between June and July of 2004 following a series of intensive discussions and consultations among the Parliamentarians in the working group as well as with NGO representatives, including TI Georgia and Georgian Young Lawyers' Association (GYLA). After additional consultations on the first draft, on 8 July 2004, the MPs agreed to adopt the final text of the Code as a general and non-binding declaration. It was initially planned to hold the official signing ceremony in late July however due to a very busy legislative agenda the MPs decided to postpone it until the fall Parliamentary session. The new Code of Ethics (see Annex I) was not meant to duplicate the already existing norms of Parliamentarians' public behavior. The main purpose was to combine and integrate these existing norms from domestic as well as international legislation into a single and short document that would allow for easy reference.⁷

Some thought that the Code of Ethics should also become part of Parliamentary Rules of Procedure, thus incurring liability for its violation, some proposed to establish the office of Ethics Ombudsman in the Parliament as an independent mechanism of monitoring and supervision, some wanted to give this regulatory function to the public council or another public entity or individual. In the end, however, all these ideas were rejected due to the controversies both inside and outside of the Parliament. It was instead agreed to allow MPs themselves to decide on their ethical dilemmas and to delegate the oversight role to the general public.⁸

Loyalty, integrity, impartiality, accountability, transparency, courtesy and frankness were all outlined in the final text of the Code as indispensable features that Parliamentarians need to commit to when assuming office. It was impermissible and unacceptable, under the Code, to use offensive language during Parliamentary debates and to show disrespect of colleagues because of their differing viewpoints or opinions. In addition, the MPs committed to use the privileges they were entrusted with to the benefit of society only and not to their own benefit. To this end, the MPs were required to provide the public with precise information about their assets and financial interests, including those of their families. Specifically, before taking part in public debates and discussions the MPs were asked to disclose any potential conflict of interest in relation to the matter under consideration and to refuse to participate in such discussions if their private interests were affected.⁹

The official signing ceremony of the Code of Ethics took place in the Parliament on 12 October, 2004. A special signing poster was prepared with the text of the Code and space for signatures. All MPs as well as a large number of representatives from international organizations, NGOs, foreign embassies and the media were invited to attend the event. The Parliamentary Chairwoman Nino Burjanadze opened the ceremony with a brief speech about the importance of the Code of Ethics for the Parliamentarians. This was followed by welcoming speeches from TI Georgia and the OSCE representatives, after which the Code was ready for MPs' signatures. 121 Parliamentarians publicly signed the text at the ceremony while 27 Parliamentarians, who could not come to the event, signed it several days later, thereby committing to observe and comply with its main principles.¹⁰

The entire process of drafting and signing of the Parliamentary Code of Ethics was widely covered in the media, including both local and international media outlets and newspapers. The

⁶ Transparency International Georgia, "Developing and Publicly Signing a Code of Ethics for the Georgian Parliament", op.cit

⁷ Ibid.

⁸ Ibid.

⁹ Parliament of Georgia, Code of Ethics of the Members of the Georgian Parliament, October 2004

¹⁰ Transparency International Georgia, "Developing and Publicly Signing a Code of Ethics for the Georgian Parliament", op.cit

process also kindled the interest of a number of foreign embassies (e.g., Russia and Armenia) who were asking their Georgian colleagues to share experience and knowledge.¹¹

Post-adoption period and the current status

In 2008, the members of the Georgian Parliament were re-elected, resulting in the expiration of mandates of most of the Parliamentarians who had signed the Code of Ethics in 2004. In the period between 2004 and 2008 there were only two cases when MPs (one from the opposition party and one from the ruling party) were stripped of their mandates due to the conflict of interest allegations.¹² In these two cases, though, the necessary investigatory proceedings leading to the termination of Parliamentary mandates were carried out by Procedural Issues and Rules Committee and approved by the Parliament at the plenary session in accordance with the Parliamentary Rules of Procedure.¹³ Given its declaratory and non-binding character the Code of Ethics was not invoked at all.

In addition, the Code of Ethics did not include the date of expiry or period of validity, meaning that it has in fact been void after the 2008 Parliamentary elections.¹⁴ The current Parliament appears not to have taken the ownership of the document developed by its predecessor resulting in it being largely forgotten now. For instance, the two new MPs that were interviewed for this study admitted that they had not even heard about or read such a document before TI Georgia representatives handed it over to them. Furthermore, until the April 2012 “Conference on Codes and Standards of Ethics for Parliamentarians”, there had been no discussion among Parliamentarians either about upgrading the status of the Code or adopting a new one, leaving the process in limbo.

At the same time, absent Parliamentarians and ‘ghost-voting’, use of offensive language and hand-to-hand fighting during the plenary sessions as well as conflict-of-interest and power abuse allegations against a number of MPs still remain the main issues of concern in the current Parliament that have not been addressed. The recent examples help illustrate the existing problems in the Georgian legislature: on 14 June 2011, video footage was circulated of Parliamentarians using their absent colleagues’ identification cards to cast a vote during the plenary session, which once again showed the practice of continuous ‘ghost voting’ in the Parliament;¹⁵ on 27 September 2011, an opposition MP was slapped by a ruling party MP in the plenary room, after the former expressed his opinion about Georgia’s 2008 war with Russia;¹⁶ on 17 November 2011, EurasiaNet.org published an article about vested commercial interests of a number of senior ruling party MPs in food and car industries, including examples of how the companies in which these MPs hold shares easily win large state tenders worth millions of Georgian laris.¹⁷ All these cases could be interpreted as infringements of the principles of integrity, courtesy and accountability that are explicitly stated in the Code of Ethics as essential commitments for Parliamentarians.

It seems obvious that the 2004 Code of Parliamentary Ethics has failed to keep the MPs informed about and liable under its provisions. It has also failed to raise the standard of MPs’ professional conduct and to change public perceptions of such conduct in a more positive direction.

¹¹ Ibid.

¹² “MP Stripped of Credentials”, Civil.ge, 21 June 2006, <<http://www.civil.ge/eng/article.php?id=12883>>

¹³ Parliamentary Rules of Procedure, Chapter IV, Article 8, see <http://www.parliament.ge/_special/kan/files/339.pdf>

¹⁴ Gogorishvili, op cit.

¹⁵ George Topouria, “Absent Parliamentarians and ghost voting in the Georgian legislature”, Transparency International Georgia Blog, 24 June 2011, <<http://transparency.ge/en/blog/absent-Parliamentarians-and-ghost-voting-georgian-legislature>>

¹⁶ “Ruling Party MP Slaps Opposition Lawmaker over August War Remarks”, Civil.ge, 27 September 2011, <<http://www.civil.ge/eng/article.php?id=23967>>

¹⁷ “Georgia: Tbilisi Lawmakers Try to Define Where Politics Ends and Business Begins”, Eurasianet.org, 17 November 2011, <<http://www.eurasianet.org/node/64535>>

To find out why this is the case TI Georgia conducted interviews with former and current MPs who were involved in the drafting of the Ethics Code in 2004 and/or who have relevant expertise and experience of working on such issues.

When asked about the Code's failure over the years to deter clear violations of ethical rules by the MPs a majority of the respondents were suggesting that it is due to its character and status which is declaratory and non-binding. Specifically, the 2004 Code of Ethics did not include enforcement mechanism or complaints body to ensure that its main provisions are observed. It was a bona fide obligation of Parliamentarians, a so called 'gentlemen's agreement' as Nino Burjanadze put it, to obey the rules enshrined in the Code, but it has turned out to be ineffective and requires changes now.¹⁸ It is good, on the one hand, to have a non-binding declaration of basic ethical values and norms in a single and short document but on the other hand, it does not make sense to have such a document if there is no proper regulatory and monitoring mechanism in place to ensure that its provisions are observed.¹⁹

Therefore, the questions about a change in the form and status of the 2004 Ethics Code were also asked to all respondents of this study who expressed different opinions on the matter. Some were proposing to adopt a new Code with binding provisions while others were in favor of keeping the current framework, albeit with some slight modifications. Those advocating for the new binding Code were saying that its provisions should also become part of the Parliamentary Rules of Procedure while others were objecting to having the two binding documents of similar character concurrently. Everybody agreed though that ethical regulation of any character should in no way restrict Parliamentarians' right to privacy by making it clear that only their professional and public conduct is under regulation. Such regulations should not deter the MPs' right to debate either if the debate itself is constructive and focuses only on the issue under discussion.

If it comes to adopting a new Code of Parliamentary Ethics the important question to be considered is its status: should it be signed into law or into an in-house provision of the Parliament Chairman? The latter option seems more reasonable here since it would technically be difficult to adopt the Law on Parliamentary Ethics and make it applicable to the Parliamentarians only.²⁰

There are important caveats, though, when considering the adoption of a binding document on Parliamentary ethics. Firstly, ethical standards and rules of the conduct of MPs are well regulated in a number of domestic laws and international agreements, including Parliamentary Rules of Procedure, Law of Georgia on the Status of Member of Parliament, and Georgia's Council of Europe commitments, and a separate Code of Parliamentary Ethics might create problems with duplication and overregulation. Therefore, some think that binding ethical rules, if any, should only be part of Parliamentary Rules of Procedure and not of a separate Code.²¹ In fact, Parliamentary Rules of Procedure has quite detailed provisions with regard to what constitutes acceptable and unacceptable behavior of MPs, including a monitoring and enforcement mechanism (Procedural Issues and Rules Committee) to ensure compliance. In addition, the Parliament Mandaturi is in charge of keeping order during the Parliamentary plenary sessions and is authorized, in case of any misbehavior, to expel the responsible MPs from the plenary room. "If we had a "slimmer document" of Parliamentary Rules of Procedure I would then support having a "thicker" Code of Ethics with more specific provisions and sanctions, but under the current setting it is not necessary", argued Levan Vepkhadze, Deputy Chairman of the Parliament from Christian-Democratic Movement.²²

¹⁸ TI Georgia's interview with Nino Burjanadze, Chairperson of Democratic Movement – United Georgia (Former Chairperson of the Parliament of Georgia), Tbilisi, 20 March 2012

¹⁹ TI Georgia's interview with Chiora Taktakishvili, First Deputy Chairperson of Legal Issues Committee of the Parliament of Georgia from the United National Movement, 23 March 2012

²⁰ Gogorishvili, op.cit.

²¹ Taktakishvili, op.cit.

²² TI Georgia's interview with Levan Vepkhvadze, Deputy Chairman of the Parliament of Georgia from Christian-Democratic Movement, 21 March 2012

Secondly, additional regulation of Parliamentary ethics, including sanctions for violation, could be easily used as a mechanism for suppressing and discrediting political opponents, which could in turn give rise to unnecessary publicity and politicization of the issue. Thirdly, it does not seem feasible to measure, control and sanction every aspect of MPs' public behavior, their personal emotions and gender perceptions, for instance. This also suggests that each country has its own unique political culture and mentality and it needs to be taken into account while drafting a binding ethics document for Parliamentarians.²³

Despite all these concerns, none of the respondents TI Georgia spoke with objected to having the Code of Ethics in the Parliament but, on the contrary, suggested ways to modify and make the existing framework work better.

For instance, Gigi Tsereteli, the Deputy Chairperson of the Parliament from the United National Movement and a member of the working group in charge of drafting the Ethics Code in 2004, argued that the Code, in its current form, continues to serve as a useful guide for MPs and shows their long-term voluntary commitment to higher moral and ethical standards. That said, it would make sense to visualize the Code better, post it on the Parliament web page and distribute it to all current MPs, said Tsereteli.²⁴

On a similar note, Chiora Taktakishvili, the First Deputy Chairperson of Legal Issues Committee of the Parliament, thought that MPs can move on with the existing ethics framework, however, it would also be possible to make some slight modifications. One option is to compile references to all relevant anti-corruption and ethical norms in a single document and, if necessary, to complement these with more specific provisions. The reference to this document could also be made in Parliamentary Rules of Procedure so that it becomes mandatory upon all MPs. For better promotion, the MPs, while assuming the office, may be asked to publicly sign the document and to swear allegiance to the basic ethical values and norms it promulgates. Such symbolic measures would upgrade the status of the Code of Ethics as an important part of the country's value system.²⁵

The MPs interviewed were unanimous in saying that in-house ethical norms of any kind should only be self-regulated to make sure that Parliamentarians themselves feel ownership of the system. Some thought that the Procedural Issues and Rules Committee in the Parliament is the right body to perform this regulatory function and, in fact, it has been doing since its very creation. Some wanted to delegate this function to a different entity, such as the Parliament Mandaturi, or to a specially designated Parliamentary Committee which would be in charge of monitoring how MPs are behaving, advising them on how to comply with binding ethical provisions and applying appropriate sanctions when these provisions are violated. In order for the ethics regulatory body to be credible and influential the relevant Committee should be composed of Parliamentarians themselves and not of staff members of the Parliamentary Apparatus. In addition, it should involve representatives from all Parliamentary factions so that the principle of equality is observed. The number of Committee members from each faction could be determined by the size of the faction itself.²⁶

The MPs interviewed think that reputational rather than punitive sanctions could have the desired effect of deterring any professional misbehavior on the part of Parliamentarians. As an illustration, the names of MPs who are systematically skipping plenary sessions are publicly announced and their salaries deducted, which then prevents them from engaging in similar practices. In fact, public 'naming and shaming', especially in the Georgian context, is a quite

²³ Ibid.

²⁴ TI Georgia's interview with Gigi Tsereteli, Deputy Chairperson of the Parliament of Georgia from the United National Movement, 26 March 2012

²⁵ Taktakishvili, op.cit.

²⁶ Gogorishvili, op.cit.

effective penalty instrument given that the image and reputation matter a great deal for Georgians. According to Khatuna Gogorishvili, the Head of the Procedural Issues and Rules Committee, “every MP could afford to pay a fine for misbehavior but it would cost them much more to pay for reputation”.²⁷ The former Parliamentary Chairwoman Nino Burjanadze thought, though, that certain degrading behavior of MPs deserves more punitive sanctions. Defamation, for instance, which is no longer punishable under the Georgian Criminal Code, could instead be made punishable under a new Parliamentary Code of Ethics. Upon receiving the complaint, the relevant regulatory body within the Parliament could start the investigation and impose a strict penalty if the responsible person is not able to prove the truth of the statement concerning his or her colleague.²⁸

On the other hand, to avoid unnecessary publicity and politicization of ethical issues it could make sense to make ethical rules part of the internal regulation within each of the Parliamentary faction only, a system similar to the one used in the courts when the High Council of Justice, while imposing disciplinary sanctions on judges, can also decide whether to make such sanctions public. In this case, the importance of making MPs’ misbehavior and incurring sanctions public should outweigh the potential damage that might be inflicted on his or her immunity and independence.²⁹

Preliminary recommendations

The Parliamentary Code of Ethics could be an important deterrent of MPs’ misbehavior if its provisions are clear and mandatory and if there is proper enforcement mechanism in place. The existing Code of Ethics for Georgian Parliamentarians, a rather general document of only two pages long, lacks this deterrent function, thus leaving the compliance with its provisions to the full discretion of MPs themselves. Such a system has proved to be inefficient in that the unethical conduct remains frequent occurrence in the Georgian Parliament even after the adoption of the Parliamentary Code of Ethics in 2004. For its part, the Parliamentary Rules of Procedure, a giant legal document on the activities of the Parliament and its members,³⁰ has not deterred the MPs’ professional misconduct either, raising questions about what can be done to improve the status quo.

The adoption of a new Code of Parliamentary Ethics as a legally binding document could be a viable alternative but it is not considered at the moment for a number of reasons. It does not seem to have the support of many current MPs who think that the existing legal framework well regulates conflict-of interest and ethical issues that Parliamentarians might be facing and there is no need to have an additional regulation.

Nevertheless, nobody from the MPs interviewed expressed their opposition to having a Parliamentary Code of Ethics in its current form. The problem is that there is a seemingly obvious lack of awareness about this document among the new members of the Parliament. Moreover, the Code has also been largely forgotten among those MPs who signed it in 2004 which indicates that the Parliament has not done much to explain the importance of the document to its members.

To improve this, the Parliament needs to think about ways to promote its in-house ethical norms better. In the first place, the Parliament should consider posting the Code Ethics on a prominent place on its web page so that it is visible both for the MPs and for the general public. Secondly, all new MPs should be required to publicly sign the document and swear allegiance to its principles before assuming the office, thus casting aside any concerns about its validity.

²⁷ Ibid.

²⁸ Burjanadze, op.cit.

²⁹ Taktakishvili, op.cit.

³⁰ Parliamentary Rules of Procedure, Chapter XVIII, Article 136 (8), includes only a very general reference to the observance of ethical norms during plenary sessions, see <http://www.parliament.ge/_special/kan/files/339.pdf>

Regarding the Code's status and the form, it seems reasonable to embed it or make a specific reference to it in the Parliamentary Rules of Procedure thereby making the Code's provisions binding upon all MPs. To that end, it would also make sense if the Parliamentary Code of Ethics includes references to detailed citations of all relevant laws so that MPs are reminded time and again of the values they are supposed to uphold and of the legal obligations they face. This would make it easier for Parliamentarians to find all their professional duties and responsibilities listed in a single overarching document, but also would help the media and the general public to use clear benchmarks against which to measure an MP's conduct.

It then seems logical that the Parliamentary Code of Ethics is administered and enforced by the Parliament of Georgia itself – this was strongly supported by all respondents TI Georgia spoke with. This is especially desirable in the Georgian context, in which the Parliament's level of independence is not high in practice, according to TI Georgia's National Integrity System Report,³¹ and in which having an external ethics regulator could further reduce the power of the Parliament and the immunity of its members. It would also be redundant considering that the Parliament's Procedural Issues and Rules Committee, which has long performed similar monitoring and regulatory function, could easily integrate the Code of Ethics as part of its mandate, especially if the Code itself is embedded in Parliamentary Rules of Procedure. This would also spare the Parliament from spending additional administrative, technical and human resources that might be necessary for the setting up of a new regulatory body.

Another important dimension of Parliamentary ethics regulation is related to the sanctions or penalties imposed upon MPs in cases when their behavior is not in accordance with the Code. The relevant conflict-of-interest laws, which should be cited in the Parliamentary Code of Ethics, already include sanctions for their violation and it would be redundant to propose additional sanctions in the Code. However, it needs to be made clearer that the MPs, before Parliamentary committee hearings and plenary voting, have to publicly disclose any of their business interests that might potentially conflict with the matter under consideration and to abstain from casting a vote if such interests are represented. On the other hand, the peculiar cases of MPs' ethical misconduct for which no specific penalties are imposed (e.g., 'ghost-voting', insolence and defamation, slapping and beating of colleagues, and degrading treatment of Parliamentary staff members) should also necessarily incur some form of liability for the offenders. In this case, in order not to impair the immunity and status of MPs as elected representatives of people, the relatively softer penalty, such as 'naming and shaming', seems the most appropriate deterrent mechanism. Specifically, the names of all MPs who act disgracefully in their professional conduct should be publicly announced every time when such disgraceful acts occur. This would prevent similar practices from recurring since Georgian Parliamentarians would feel particularly awkward about being labeled boorish and ill-mannered in the public and the media. They would rather prefer to pay a fine than to let their reputation suffer in a society where connections and networks play a vital role in people's professional and private lives.

A Code of Parliamentary Ethics is widely recognized as a valuable tool to establish or upgrade standards of professional behavior for Parliamentarians and to help them address specific conflicts of interest, personal challenges and dilemmas they might face in the exercise of their public functions. By making ethical provisions measurable and enforceable the Parliament would show that its members are more accountable towards their constituencies and care more about how people perceive them. The regulation of Parliamentary ethics would also increase the country's democratic credibility in the international arena, especially when it comes to forging closer ties with the European Union which considers ethical norms in public service as one of the basic elements of good governance.³² All this then suggests that Georgia needs to do

³¹ Transparency International Georgia, Georgia National Integrity System Assessment, Tbilisi, 2011, pp.30-47, <http://transparency.ge/sites/transparency.ge.nis/files/TIGeorgia_NISReport_en.pdf>

³² Valentina, Pop, "MEPs hope to restore public trust with ethics code", EUobserver, 1 January 2012, <<http://euobserver.com/18/114475>>

more to make its existing system of Parliamentary ethics work better so that the inappropriate and unethical conduct of Georgian Parliamentarians becomes rarer and is gradually removed from practice.

References

Civil.ge, “MP Stripped of Credentials”, 21 June 2006,
<<http://www.civil.ge/eng/article.php?id=12883>>

Civil.ge, “Ruling Party MP Slaps Opposition Lawmaker over August War Remarks”, 27 September 2011, <<http://www.civil.ge/eng/article.php?id=23967>>

Eurasianet.org, “Georgia: Tbilisi Lawmakers Try to Define Where Politics Ends and Business Begins”, 17 November 2011, <<http://www.eurasianet.org/node/64535>>

Organization for Security and Cooperation in Europe (OSCE), “Background Study: Professional and Ethical Standards for Parliamentarians”, Working Draft, January 2012

Parliament of Georgia, Parliamentary Rules of Procedure,
<http://www.parliament.ge/_special/kan/files/339.pdf>

Parliament of Georgia, Code of Ethics of the Members of the Georgian Parliament, October 2004

Pop, Valentina, “MEPs hope to restore public trust with ethics code”, EUobserver, 1 January 2012, <<http://euobserver.com/18/114475>>

Topouria, George, “Absent Parliamentarians and ghost voting in the Georgian legislature”, Transparency International Georgia Blog, 24 June 2011,
<<http://transparency.ge/en/blog/absent-Parliamentarians-and-ghost-voting-georgian-legislature>>

Transparency International Georgia, Georgia National Integrity System Assessment, Tbilisi, 2011,
<http://transparency.ge/sites/transparency.ge.nis/files/TIGeorgia_NISReport_en.pdf>

Transparency International Georgia, “Developing and Publicly Signing a Code of Ethics for the Georgian Parliament”, Narrative Report, May-October 2004

List of Interviews:

TI Georgia’s interview with Nino Burjanadze, Chairperson of Democratic Movement – United Georgia (Former Chairperson of the Parliament of Georgia), Tbilisi, 20 March 2012

TI Georgia’s interview with Levan Vepkhvadze, Deputy Chairman of the Parliament of Georgia from Christian-Democratic Movement, 21 March 2012

TI Georgia’s interview with Khatuna Gogorishvili, Chairperson of the Procedural Issues and Rules Committee of the Parliament of Georgia from the United National Movement, 22 March 2012

TI Georgia’s interview with Chiora Taktakishvili, First Deputy Chairperson of Legal Issues Committee of the Parliament of Georgia from the United National Movement, 23 March 2012

TI Georgia's interview with Gigi Tsereteli, Deputy Chairperson of the Parliament of Georgia from the United National Movement, 26 March 2012

Annex 1: Code of Ethics of the Members of the Georgian Parliament (2004)³³

The parliament of Georgia takes into consideration that the ethical and fair actions of the Georgian MPs significantly contribute to the formation of democratic institutions in the country; to intensifying the trust of society towards the representative institutions; and developing and perfecting ethical norms. The Georgian MPs take responsibility to follow the recognized and mutually agreed-upon main principles of the code of ethics.

The main principles of the Code of Ethics of the MPs are:

- a) Loyalty to the interests of society
- b) Integrity
- c) Objectivity and impartiality
- d) Accountability to their constituents
- e) Publicity
- f) Honesty

1. While making an oath, the MPs take responsibility to be loyal to the constitution, to abide by law, to serve the public interests, to improve democratic governance, to strengthen the confidence of society towards Parliament as an institution and to build a positive image of the institution as well as of the state in general, to support the adoption of laws which contribute to the development of democratic and civil society, and to strengthen the sense of responsibility and accountability of the MPs, including high ranking officials.

2. The MPs have a general responsibility to act in the interests of the nation as well as having specific duties to their constituents. They must periodically present an honest and detailed report of their activities and thus express their accountability to the constituents.

3. The MPs must fully utilize their knowledge and experience in improving the activities of Parliament and its structures.

4. In every situation, MPs should act in accordance with the status of Parliament and with the trust expressed by the society towards them. Each MP has the responsibility to maintain the prestige of the Parliament and interests of the society; they must not permit disrespect of their colleagues, individuals working within the parliament or others despite differing viewpoints or opinions. The members of Parliament should not use degrading phrases or offensive language. They should be patient and respectful towards the citizens who address them.

5. The privileges, which are determined by the Georgian legislation and which are utilized by the MPs, must contribute to the completion of their responsibilities to their constituents and should not be abused by their private interests, or the interests of their friends or relatives. The MPs should avoid nepotism in their activities and work in their capacity to eliminate this negative phenomenon.

6. The MPs should follow only legal, state, and social interests when preparing, considering and making decisions or leading any other political activity.

³³ Note: this is not an official English translation of the 2004 Code of Ethics of the Members of the Georgian Parliament. The unofficial English translation was done by TI Georgia.

7. The MPs should provide society with exact information concerning the welfare standards and financial interests of themselves and their families. They should provide a timely account of their activities in order to avoid any possible conflicts between their private finances and society's interests and in case of such a conflict should solve it in to the benefit of society or refuse to participate in a public discussion of such issue if their private interests are represented.
8. The MPs should actively cooperate with the representatives of mass media in the matters, which are important for the society.
9. The MPs should express a tolerant and fair-minded position towards their critics.
10. The MPs should be fair to everyone; should act impartially on the bases of the Constitution, laws, procedural norms, and the Code of Ethics; and should follow the principle of equality for all with respect to the laws.
11. The MPs are obliged to treat all citizens of Georgia as well as citizens of other states with tolerance and respect, despite differences in race, language, gender, religion, political views, national-ethnic or social background.
12. The MPs should set an example to society in accordance with the universally recognized norms of ethics in their manner of presentation, behavior, and public activities while fulfilling parliamentary duties and in general.

Annex 2: Questionnaire on the Parliamentary Code of Ethics in Georgia

1. Could you provide a brief overview of the development of the Code of Ethics in 2004? Who was the initiator, what was the timeline, how did the process go, how was the working group selected, was there involvement from a wide range of Parliamentarians and civil society representatives and what was their role in drafting the Code, was the Code based on best international practices and if yes, which ones, was the Code adopted by plenary vote or resolution?
2. Do you think that the final text of the 2004 Code well reflected the main issues that Georgian Parliamentarians had faced in the years leading up to its adoption in terms of their conduct and public perception?
3. What happened after the signing of the Code in 2004? Why has it not been implemented in practice and what are the plans, if any, to break the deadlock in this regard? Is the adoption and enforcement of the Parliamentary Code of Ethics part of Georgia's international commitments?
4. Do you think that the current code well reflects the main issues that Georgian Parliamentarians now face in terms of their conduct and public perception? If no, would it be more appropriate to change this Code and draft a new one with more detailed provisions on acceptable and unacceptable behavior, disclosure of asset and interest declarations, use of allowances, outside and post-Parliamentary employment?
5. Do you think that a unified and binding Code of Ethics should become part of the Parliamentary Rules and Procedures? Should it include enforceable behavioral standards and sanctions for their violation? If yes, what type of sanctions would be more appropriate to impose on Parliamentarians in this case? (e.g., fines, warnings, public announcement and etc.)
6. Should there be an independent supervisory body in charge of monitoring how Parliamentarians are behaving, advising them on how to comply with binding professional and ethical standards and applying appropriate sanctions for violating these standards?